IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,

AT HYDERABAD

HON'BLE SRI JUSTICE V.V.S. RAO

W.P. No. 21049 OF 2005

Date: 06.10.2005

BETWEEN:

Kundanbagh Apartments Association,

Rep. by its Prsident K. Gandhi

…. PETITIONER

And

1. The Municipal Corporation of Hyderabad Lower Tank Bund Road, Hyderabad, and others.

…. RESPONDENTS

HONOURABLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No. 21049 OF 2005

ORDER:

Kundanbagh Apartments Association, premises No.6-3-1192/1/1-20 is the petitioner. In this writ petition he seeks following reliefs.

i. Declaring the inaction of the respondent 1 & 2 in not taking any steps to arrest the illegal construction by Respondent-4 in premises No.6-3-1192/1/1 to 20, Kindanbagh, Begumpet, Hyderabad, as arbitrary and illegal.

ii. A direction may be given to the respondents 1 & 2 to take action against respondent-4 to provide exclusive approach road to the petitioner's apartment complex by maintaining clear set backs and open space as required by law, and to provide

fire protection measures, and further to take necessary steps as required by law in removing the illegal constructions of commercial complexes carry out by respondent-4 in premises No.6-3-1192/1/1 to 20 Kundanbagh, Begumpet, Hyderabad.

In brief, it is the case of the petitioner that eighty members of the petitioner association purchased residential flats in two apartment blocks constructed by the fourth respondent in the year 1991 or there about. According to them the road leading on the Western side from Green Land junction to their flats was only access for ingress and aggress. The fourth respondent constructed two more commercial apartment blocks, each with ground + six floors and while doing so, made constructions on the pathway leading to petitioner's apartment. They also allege that the cellar parking area in the two commercial blocks was leased out by the fourth respondent to commercial vendors, as a result of which, all the persons are forced to park their vehicles on the road meant for passage for the purpose of the petitioner association. In addition to this, the fourth respondent started construction of another commercial block with ground + 9 floors on the rear side of the already existing two commercial apartment blocks with two cellars allegedly encroaching upon the set-back area of the apartment block of the petitioner.

The petitioner approached the Government, who forwarded the matter to the Municipal Corporation of Hyderabad (MCH) and the Director General of Fire Services. According to the petitioner, the latter also opined that the existing passage/pathway would not be able to effectively saved in the event of any fire accident. Therefore petitioner seeks a direction to respondents 1 and 2 to arrest the illegal construction made by the fourth respondent in premises No.6-3-1192/1/1 to 20, Kundanbagh, Begumpet, Hyderabad, and a further direction to take action against the fourth respondent to provide exclusive approach road to the petitioner's apartment.

Heard learned Senior Counsel for the petitioner and learned Standing Counsel for MCH. The learned Senior Counsel being aware of the limitations of this Court in such a matter, made the only submission to give liberty to the petitioner to make a detailed representation raising all the objections before the first respondent. He would requests to direct the Commissioner of Municipal Corporation to conduct a personal inspection after giving notice to the petitioner's representative and to the fourth respondent and take appropriate decision in the matter. There cannot be any objection for the said prayer even if the petitioner's earlier representations were considered by the MCH.

Accordingly, this writ petition is disposed of at the admission stage in the following manner without expressing any opinion on the merits of the case and various contentions raised by the petitioner's counsel with regard to alleged illegal construction already made by the fourth respondent, or the illegal construction that is being made by the fourth respondent at present;

i. The petitioner is given liberty to make a representation to the Commissioner MCH immediately;

ii. As and when such representation is made, the Commissioner, MCH is directed to inspect the premises personally along with the Chief City Planner, and such other officials as are deemed fit, consider all the objections and

material that may be placed by the petitioner, and take appropriate decision in the matter. While doing so, the Commissioner, MCH is directed to issue notice to the petitioner as well as the fourth respondent and other interested persons in the matter;

iii. After conducting such inspection it shall be open for the Commissioner, MCH to take appropriate decision in the matter and implement such decision immediately. This exercise may be completed within a period of two weeks from the date of receipt of a copy of this order.

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(**V.V.S. RAO, J.)**

6th October, 2005

Note: C.C. tomorrow

(B/o) Js.